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EXAMINER
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SHARMA, SUJATHA R

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* NEIL S. EASTMAN, MICHAEL ZINGMAN,  
and MICHELLE SAMMARTINO

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Appeal 2010-010100  
Application 10/626,244  
Technology Center 2600

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Before JOHN C. MARTIN, THOMAS S. HAHN, and  
CARL W. WHITEHEAD, JR., *Administrative Patent Judges*.

MARTIN, *Administrative Patent Judge*.

DECISION ON APPEAL<sup>1</sup>

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<sup>1</sup> The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

### STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's rejections of claims 1-26, which are all of the pending claims.

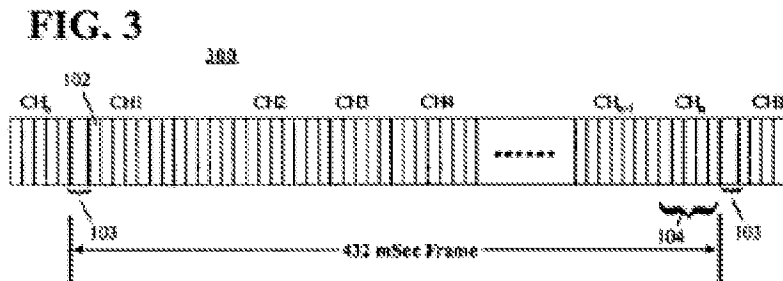
An oral hearing was held on October 12, 2010.<sup>2</sup>

We have jurisdiction under 35 U.S.C. § 6(b). We affirm.

#### A. Appellants' Invention

Appellants' invention relates generally to a radio system and interface, and more particularly to a computer-controlled radio and graphical user interface. Specification [0001].<sup>3</sup>

Figure 3 is reproduced below.



<sup>2</sup> “[A]rguments not presented in the brief or reply brief and made for the first time at the oral hearing are not normally entitled to consideration.” MPEP § 1205.02 (8th ed., rev. 7, July 2008) (citing *In re Chiddix*, 209 USPQ 78 (Comm’r Pat. 1980)).

<sup>3</sup> References herein to Appellants’ Specification are to the Application as filed rather than to corresponding Patent Application Publication 2005/0020238 A1.

Figure 3 shows the over-the-air protocol frame format 300 of the XM Satellite Radio system (*id.* at [0026]). The frame can include, *inter alia*, a broadcast information channel and/or can include, among any of the channels 1-n, an Electronic Program Guide containing information about the remaining channels in the frame (*id.*). This information can include descriptors such as the song title, artist, composer, lyricist, label, album name, genre (e.g., Latin), sub-genre (e.g., Salsa), length, lyric keywords, or any combination thereof (*id.*).

Figure 2 is reproduced below.

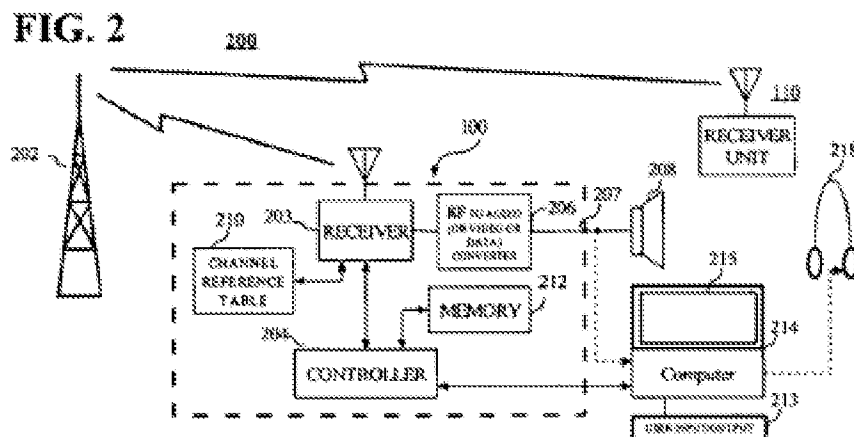


Figure 2 shows a terrestrial-based radio communication system 200 in accordance with the invention (*id.* at [0025]). Transmission station 202 can be a repeater that retransmits received satellite broadcast signals (*see id.* at [0024]) or can transmit signals using other transmission formats, such as FM or other modulation techniques suitable for the transmission of digital audio (*id.* at [0025]). Each of a plurality of receiver units (e.g., 100 and 110) includes, *inter alia*, a receiver 203 and memories 210 and 212 and can be

coupled to a computer 214 having a display 215 (*id.*). Memory 212 stores a “desired content” database including, for example, one or more favorite song or artist lists or other descriptors as designated by a user (*id.* at [0028]). Memory 210 stores associated channel information or a channel reference table that is updated whenever receiving updated information (*id.*). In a system using the XM frame 300 of Figure 3, the descriptors and other data stored in memory 210 can be updated during every 432 millisecond frame (*id.*).

Figure 5 is reproduced below.

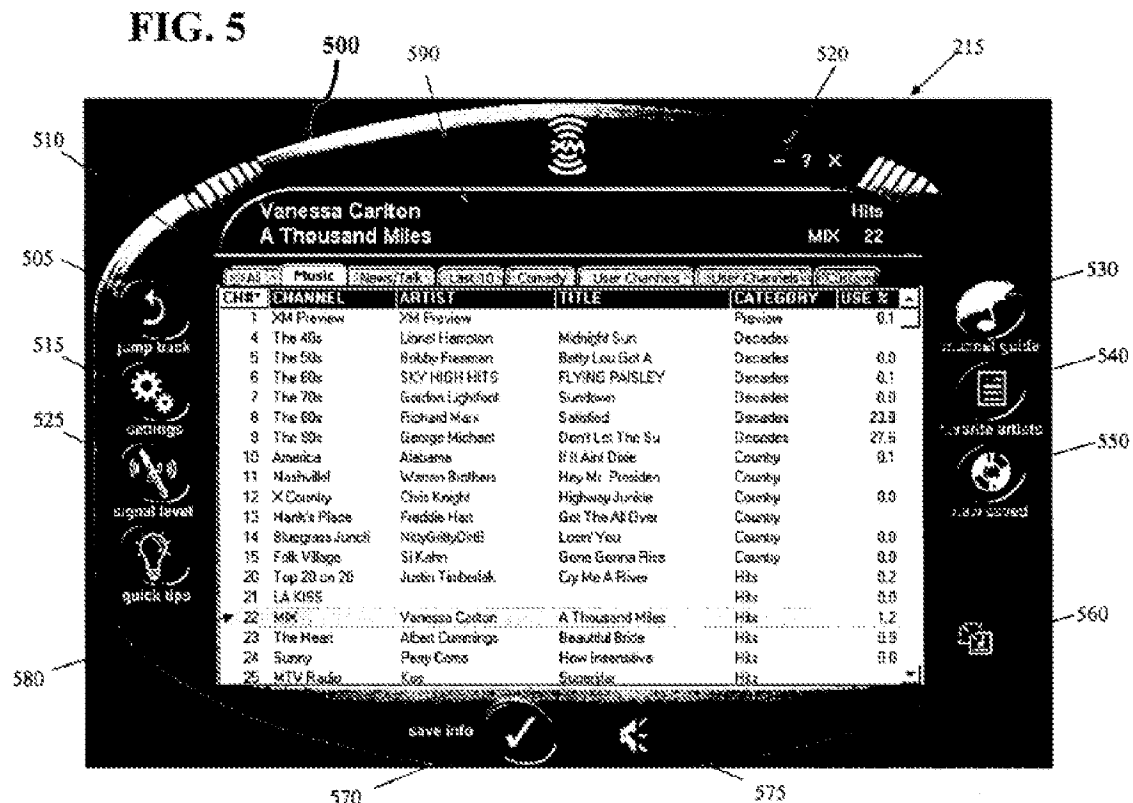


Figure 5 is a graphical user interface (GUI<sup>4</sup>) illustrating a simultaneous display of multiple channels in accordance with Appellants' invention (*id.* at [0019]). The main screen of the GUI 500 is called the Channel Guide screen, which lists all of the channels and what they are currently playing (*id.* at 0038]). In this instance, there are six columns, which display Channel Number, Channel Name, Artist, Song Title, Category and Use % (the percentage of time spent listening to each channel) (*id.*). GUI 500 can highlight a current user-selected channel as shown by the highlighted item 580 (*id.* at [0029]).

Figure 7 is reproduced below.

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<sup>4</sup> Abbreviated "UI" in Appellants' Specification (e.g., at [0032]).

**FIG. 7**

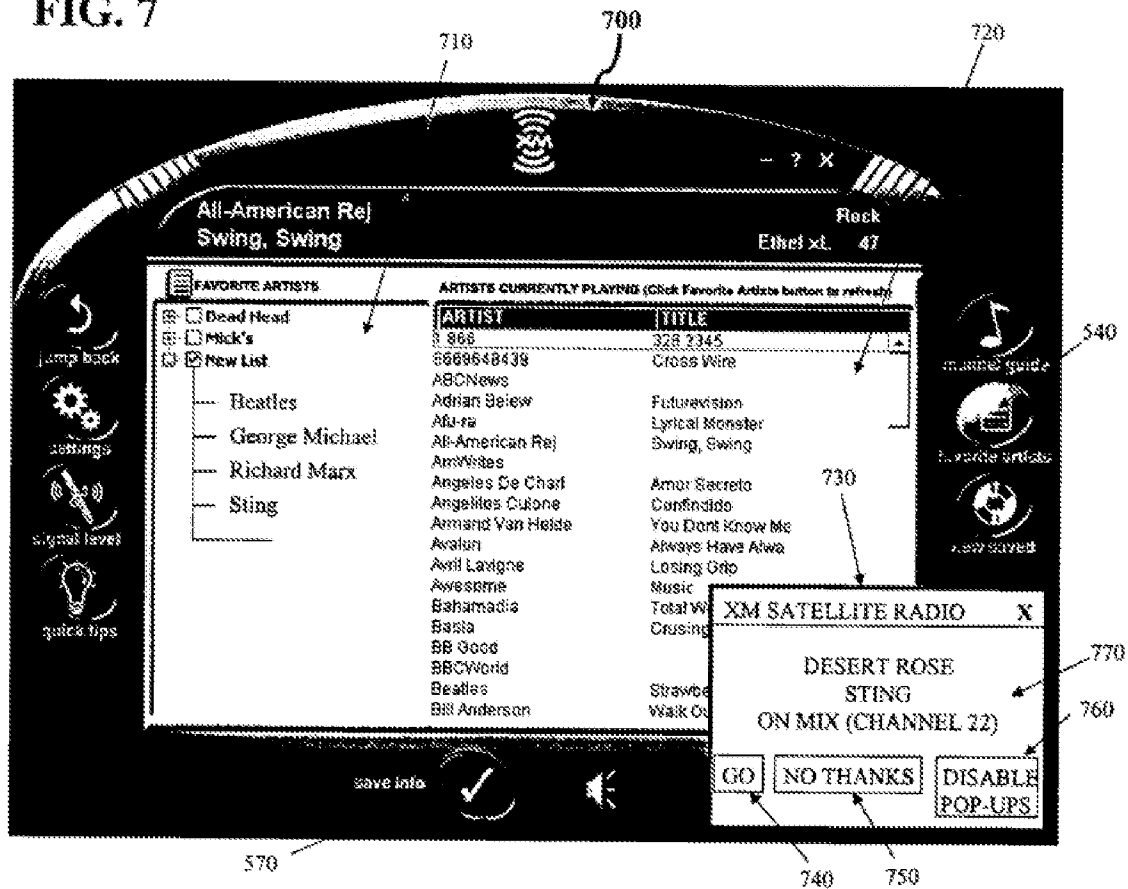


Figure 7 shows the “favorite artists” function of the GUI (*id.* at [0042]). A pop-up window 730 appears when a favorite artist is performing on any of the plurality of available channels (*id.*).

### B. The claims

The independent claims before us are claims 1, 13, 16, 20, 25, and 26, of which claim 16 reads as follows:<sup>5</sup>

<sup>5</sup> The copies of independent claims 1 and 13 in the Claims Appendix are (Continued on next page.)

16. A method of representing a plurality of channels on a display, comprising the steps of:

extracting data associated with each channel in the plurality of channels from a data stream using a single digital audio radio receiver;

enabling the selective display of the data associated with each of the plurality of channels on a graphical user interface[;]

simultaneously updating and displaying of the associated data for a selected plurality of channels among the plurality of channels wherein the data associated with the plurality of channels includes a plurality of channel numbers, a plurality of artist names, a plurality of song titles, and a plurality of channel names; and

selectively controlling a remotely coupled channel decoder on a radio receiver via the graphical user interface.

Claims App. (Br. 9).<sup>6</sup>

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incorrect. The Claims Appendix shows these claims as they were proposed to be amended at pages 2 and 4 of the November 28, 2007, “Response to Office Action” (hereinafter “Amendment”). This Amendment was refused entry in the Advisory Action mailed on December 13, 2007. The Examiner’s refusal to enter the Amendment is noted at pages 2-3 of the Appeal Brief (“Br.”), filed March 25, 2008. At page 2 of the Answer mailed on March 19, 2010, the Examiner states that Appellants’ description of the status of the Amendment in the Brief is correct. Correct copies of claims 1 and 13 can be found at pages 2 and 4 of the “Response to Office Action” filed July 5, 2007.

<sup>6</sup> The first five pages of the Brief are numbered 1-5. The next five pages are numbered “Page 1 of 5” through “Page 5 of 7.” The next page (the first page of the Claims Appendix) is numbered “Page 6 of 6.” The next pages are numbered 7-11. The last page (the Evidence Appendix and Related Proceedings Appendix) is numbered “Claims Appendix: Page 1 of 1.”

*C. The references*

The Examiner's rejections are based on the following references:

Rindsberg	US 6,553,077 B2	Apr. 22, 2003
Marko	US 2004/0049389 A1	Mar. 11, 2004
Turnbull	US 2004/0196179 A1	Oct. 7, 2004
Sezan	US 7,194,687 B2	Mar. 20, 2007
Hilt	US 2007/0118833 A1	May 24, 2007

*D. The rejections*

The claims stand rejected under 35 U.S.C. § 103(a) for obviousness based on the following references:

1. Claims 1-5, 8-12, 20-22, and 26 -- Hilt in view of Marko and Rindsberg. Final Action 2, para. 1.
2. Claims 6 and 24 -- Hilt in view of Marko, Rindsberg, and Sezan. Answer 7, para. 2.<sup>7</sup>
3. Claim 7 -- Hilt in view of Marko, Rindsberg, and Turnbull. Final Action 6, para. 3.
4. Claim 13-15 -- Hilt in view of Marko. *Id.* at 6, para. 4.
5. Claims 16, 18, 23, and 25 -- Marko in view of Rindsberg. *Id.* at 8, para. 5.<sup>8</sup>

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<sup>7</sup> Claim 24 was incorrectly grouped with claim 17 (which is rejected over Marko in view of Rindsberg and Sezan) at page 9, paragraph 6 of the Final Action.

<sup>8</sup> Because claim 23 depends on claim 22, which stands rejected over Hilt in (Continued on next page.)

6. Claim 17 -- Marko in view of Rindsberg and Sezan. *Id.* at 9, para. 6.

7. Claim 19 -- Marko in view of Rindsberg and Turnbull. (Answer 11, para. 7.).<sup>9</sup>

In a “Remand to the Examiner” mailed December 1, 2009, a previous Board panel explained, *inter alia*, that the discussion of “Ellis” and “Acker” in the Answer mailed April 11, 2008, appears to be in error. The revised Answer, mailed March 19, 2010, does not mention Ellis or Acker.

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view of Marko and Rindsberg, we will treat claim 23 as rejected on that ground.

<sup>9</sup> Although claim 19 is not included in the statement of any rejection or discussed in Final Action, that claim is included among the rejected claims in the Office Action Summary page of the Final Action. As noted at “Page 3 of 7” of the Brief, claim 19 is similar to claim 7 in that both recite displaying the signal strength of signals received from satellite and terrestrial sources, for which teaching the Examiner relies on Turnbull in rejecting claim 7. As a result, we do not agree with Appellants’ argument (Reply Br. 3-4) that the Examiner entered a new ground of rejection when explaining in the Answer that claim 19 stands rejected for obviousness over Marko in view of Rindsberg (the basis for the rejection of parent claim 16) further in view of Turnbull. The Examiner’s incorrect identification of the statutory basis for this obviousness rejection as 35 U.S.C. § § 102(e) is a harmless error.

### THE ISSUES<sup>10</sup>

1. Whether Marko is available as a reference against Appellants' claims.
2. The principal issue raised concerning the obviousness rejections is whether the references disclose or suggest simultaneously displaying information about a plurality of channels.

#### WHETHER MARKO IS AVAILABLE AS A REFERENCE UNDER 35 U.S.C. § 103(a)

Appellants, citing 35 U.S.C. § 103(c), argue that Marko cannot be used as a reference in any rejection against Appellants' claims under 35 U.S.C. § 103(a) because "Marko is under common assignment with the present application, and only qualifies as prior art under 35 U.S.C. § 102(e)." (Reply Br. 5.) The Reply Brief is accompanied by a copy of a USPTO assignment record showing that the Marko application, when filed on September 10, 2002, was assigned to XM Satellite Radio, Inc. (hereinafter "XM").

This argument is entitled to no consideration because it was not necessitated by a new point in the Answer and thus should have been made

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<sup>10</sup> See *Ex parte Frye*, 94 USPQ2d 1072, 1075 (BPAI 2010) (precedential) ("If an appellant fails to present arguments on a particular issue — or, more broadly, on a particular rejection — the Board will not, as a general matter, unilaterally review those uncontested aspects of the rejection."). Designated precedential at <http://www.uspto.gov/ip/boards/bpai/decisions/prec/index.jsp>.

Appeal 2010-010100  
Application 10/626,244

in the opening Brief. *See Ex parte Borden*, 93 USPQ2d 1473, 1473-74 (BPAI 2010) (“informative”<sup>11</sup>) (absent a showing of good cause, the Board is not required to address an argument newly presented in the Reply Brief that could have been presented in the principal Brief on Appeal).

We note that Appellants’ statement regarding common ownership does not employ the “*at the time the invention was made*” language specified in MPEP § 706(l)(1)(I) (rev. July 2008):

The burden of establishing that subject matter is disqualified as prior art is placed on applicant once the examiner has established a *prima facie* case of obviousness based on the subject matter. For example, the fact that the reference and the application have the same assignee is not, by itself, sufficient evidence to disqualify the prior art under 35 U.S.C. 103(c). There must be a statement that the common ownership was “at the time the invention was made.”

*See also* MPEP § 706.02(l)(2)(II).

Marko has not been shown to be disqualified as a reference against Appellants’ claims.

## THE OBVIOUSNESS REJECTIONS

We begin our analysis of the rejections by noting that Appellants in the Brief do not challenge the Examiner’s conclusion that it would have been obvious to combine the teachings of the references. Instead,

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<sup>11</sup> Designated “Informative” at <http://www.uspto.gov/ip/boards/bpai/decisions/inform/index.jsp>.

Appellants argue that the references fail to disclose or suggest all of the claim limitations (Br. “Page 2 of 7,” “Page 4 of 7”).

A. Claims 16, 18, and 25 (Marko in view of Rindbserg)

Marko discloses a satellite radio communication system in which text is transmitted to a receiver and then converted into speech in real time by a text-to-speech converter. Marko [0008].

Figure 6 of Marko is reproduced below.

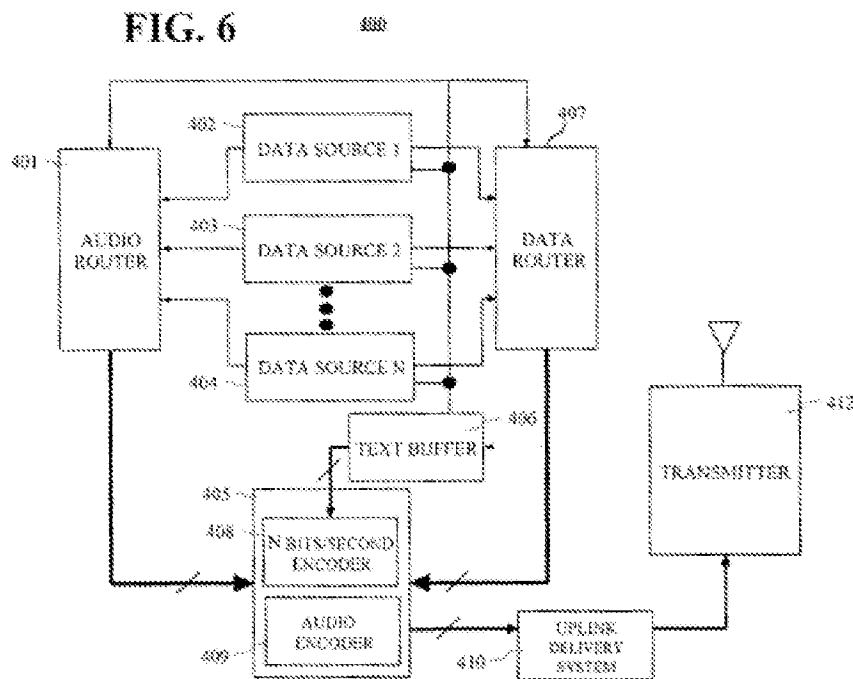


Figure 6 is a block diagram of a radio transmission source 400 in accordance with Marko’s invention (*id.* at [0026]). Source 400 generates a plurality of real-time digital audio channels, where each audio channel is comprised of either (a) digital audio compressed with a first audio

compression algorithm or (b) streamed text intended (for example) for playback with a text-to-speech converter (*id.*).

Figure 7 of Marko is reproduced below.

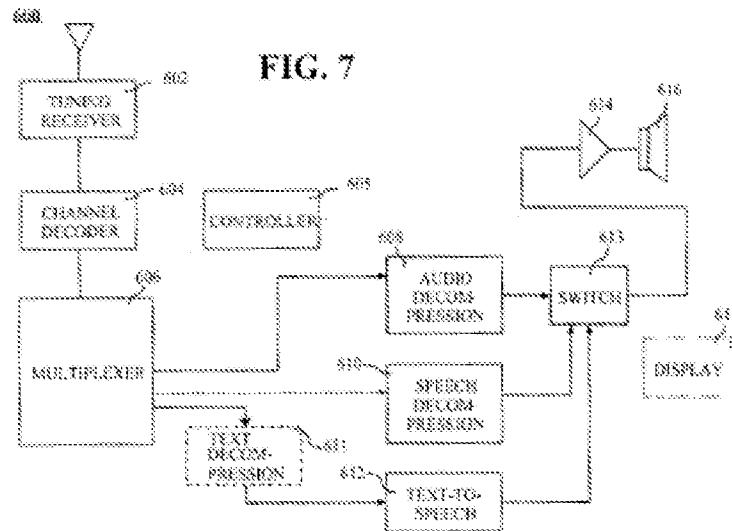


Figure 7 is a block diagram of Marko's receiver (*id.* at [0020]). The resultant signals from the audio decompressor 608, the speech decompressor 610, and the text-to-speech converter 612 may also contain "associated data" in the form of text that can optionally be displayed via the display 617 (*id.* at [0028]). This associated data can be "in the form of text information that is associated with music, news, talk, or even the 'text-to-speech' channels and essentially provides programming information such as channel [ID], artist name, song title, news segment title, talk show guest name, weather location, traffic location, and so on" (*id.*).

The Examiner found that Marko discloses claim 16's "extracting," "enabling," and "selectively controlling" steps but fails to disclose the

“simultaneously updating and displaying” step. Final Action 8, para. 5. The Examiner and Appellants appear to agree that the “simultaneously updating and displaying” step requires (1) simultaneously displaying associated data for a *plurality* of channels and (2) updating that data simultaneously with its display. The Examiner relies on Rindsberg for both of these teachings.

Rindsberg discloses a digital audio radio system and method that enable a user to intelligently select desired content among the many channels that will be available. Rindsberg, col. 2, ll. 1-4.

Figure 5 is reproduced below.

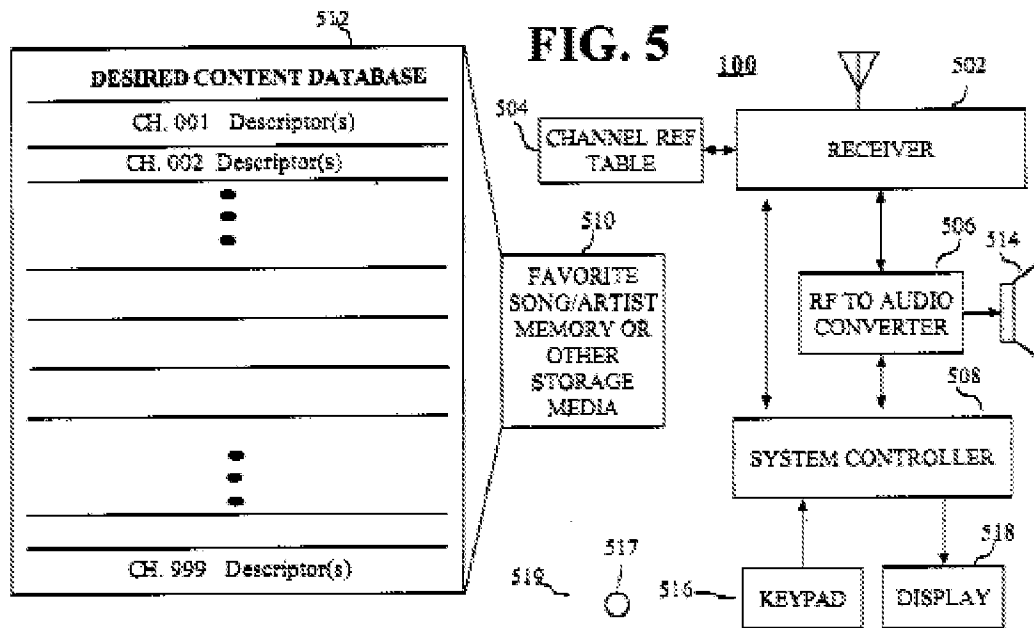


Figure 5 is a block diagram of a typical subscriber radio or receiver unit 100 in accordance with Rindsberg’s invention (col. 4, ll. 16-18). The storage media or memory 510 preferably stores a “desired content” database 512 that has, for example, a favorite song or artist list or other descriptors

(col. 4, ll. 23-25). Memory 514 preferably stores associated channel information or a channel reference table that is updated whenever receiving updated information in the current frame (col. 4, ll. 25-28). The receiver unit 100 may also include a single button or keypad 517 that allows a user to input his or her content preferences by a single key press (col. 4, ll. 36-39). For example, a user listening to Aaron Copeland's "Appalachian Spring" on a channel 17 can press the button to enter descriptors into memory 510 indicating that the user prefers to listen to music by Aaron Copeland or to American classical music, for example (col. 4, ll. 39-43). If the live broadcast on channel 18 contains Aaron Copeland's "Fanfare for the Common Man" or channel 27 contains George Gershwin's "Rhapsody in Blue," these choices can be alerted to the user by display 518 (col. 4, ll. 43-48).

The Examiner initially relied on Figure 6, which depicts the contents of channel reference table 504, and the discussion of that table at column 3, lines 41-48, and column 4, lines 1-10 and 49-61. Final Action 8, para. 5. In response to Appellants' argument that this table is not displayed and is not a GUI (Br. "Page 2 of 7"), the Examiner at page 14 of the Answer now relies on column 4, lines 16-61, including specifically column 4, lines 30-33, which states that "[a] system controller 508 enables the *routing of information* and audio to the user, either *visually through a display 518* or audibly through an audio output device 514 such as a speaker" (emphases

added).<sup>12</sup> It is clear from the Examiner's specific reliance on this sentence and further reliance on lines 39-48 of column 4 that the Examiner is now relying on Rindsberg's above-noted example of using the display to alert the user to the fact that channels 18 and 27 are currently carrying Copeland's "Fanfare for the Common Man" and Gershwin's "Rhapsody in Blue," respectively. Although Rindsberg does not state that both channel numbers and their song information are displayed simultaneously, we are of the opinion that it would have been obvious to display this information simultaneously for the convenience of the user. Furthermore, in view of Rindsberg's disclosure that channel reference table 504 can contain "updated" information for comparison with a user's store preferences (col. 4, ll. 51-53), it is apparent that the displayed channel numbers and song information will be updated simultaneously with their display, as required by the claim.

Appellants assert that the Examiner at pages 9-10 of the Answer relies on Rindsberg for the "selectively controlling" step and argue that "Rindsberg nowhere teaches selectively controlling a remotely coupled channel decoder on a radio receiver via the graphical user interface. There is no 'remotely coupled channel decoder' taught or suggested by Rindsberg. Rindsberg is about customized selection of audio channels on a single radio receiver." (Reply Br. 11.) This argument is unpersuasive because the

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<sup>12</sup> In the quotations herein from the references, bolding of the reference numerals is omitted.

Examiner does not read the “selectively controlling” step on Rindsberg. Instead, the Examiner reads this step on Marko at pages 9-10 of the Answer and at page 8, paragraph 5, of the Final Action.

For the foregoing reasons, Appellants have not demonstrated error by the Examiner in rejecting claim 16 for obviousness over Marko in view of Rindsberg. The rejection of claim 16 is therefore sustained, as is the rejection of independent claim 25, as to which Appellants rely on their claim 16 arguments, and dependent claim 18, which is not separately argued. *In re Nielson*, 816 F.2d 1567, 1572 (Fed. Cir. 1987).

*B. Claims 1-5, 8-12, 20-23, and 26 (Hilt in view of Marko and Rindsberg)*

Appellants argue claims 1-5, 8-12, 20-22, and 26 as a group (Br. “Page 1 of 5,” “Page 2 of 7”). Claim 23 is grouped with these claims for the reasons given above. Claim 1 recites a “computer” in combination with a radio receiver:<sup>13</sup>

1. A computer based multi-channel radio system,  
comprising:

a computer coupled to a display and having a graphical  
user interface; and

a single digital audio radio receiver coupled to the  
computer for selectively receiving a plurality of channels and  
data associated with the plurality of channels from a single data  
stream over the air, wherein the graphic[al] user interface  
selectively displays at least a portion of the data associated with

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<sup>13</sup> See July 5, 2007, “Response to Office Action,” at 2.

the plurality of channels and wherein the data associated with the plurality of channels includes a plurality of channel numbers, a plurality of artist names, a plurality of song titles, and a plurality of channel names and wherein such data associated with the plurality of channels is simultaneously updated and displayed.

The Examiner cites Hilt for a teaching of an XM radio system that includes a computer 104 (Fig. 1) coupled to a display (Final Action 2, para. 1; Answer 13). Hilt discloses an XM radio system that permits bookmarking of music, news, and information and further permits searching of an internet database by utilization of bookmarks. Hilt [0010].

Figure 1 of Hilt is reproduced below.

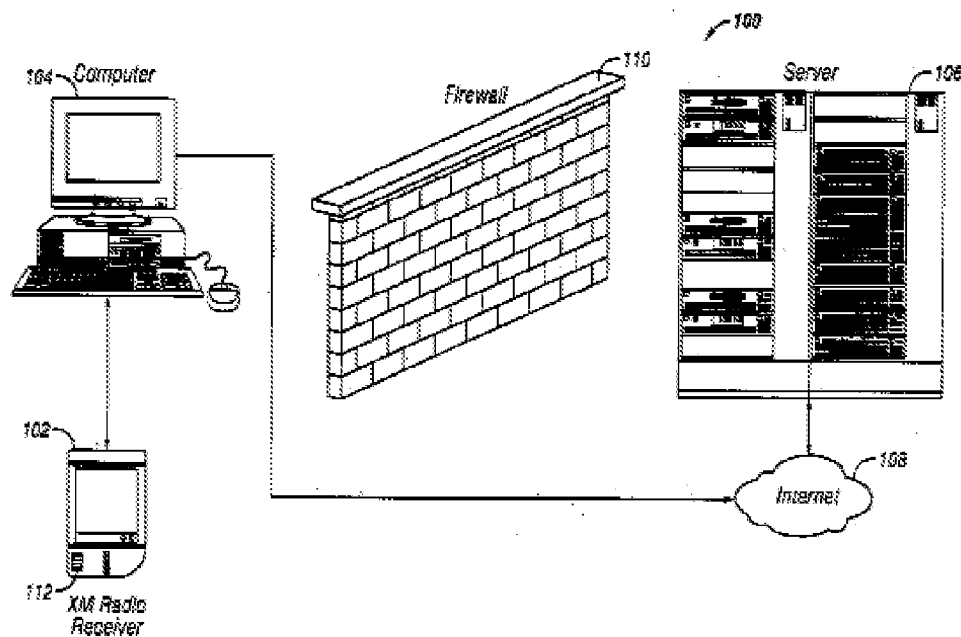


Figure 1 illustrates an embodiment in which an XM radio receiver 102 is communicatively connected to a client computer 104, which navigates

around a firewall and is communicatively connected to a server 106 via the Internet 108 (*id.* at [0014], [0017]).

Figure 2 of Hilt is reproduced below.

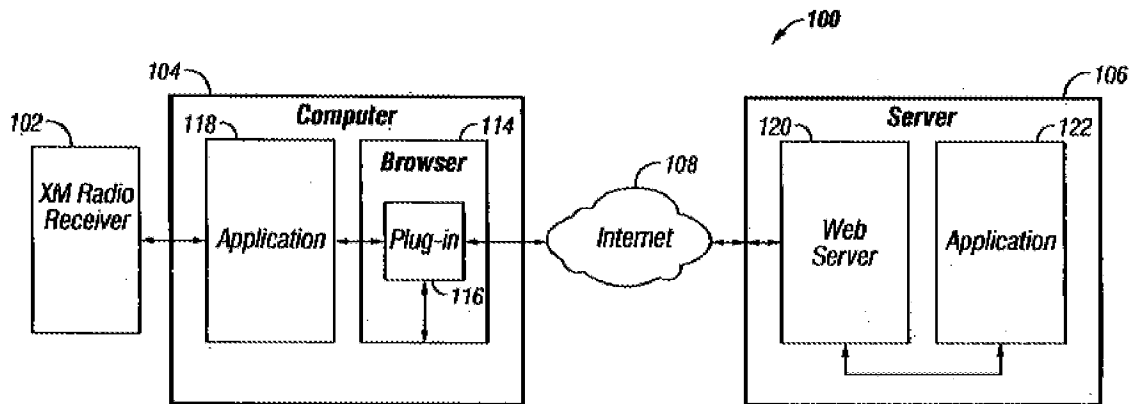


FIG. 2

Figure 2 is a block diagram illustrating the elements of XM radio bidirectional communications system 100 (*id.* at [0020]). In this embodiment, a client application program 118 and a browser 114 (including plug-in 116) reside on computer 104, which is depicted as separate from XM radio receiver 102. In an alternative embodiment, client application program 118 and browser 114 (including plug-in 116) can be installed on XM radio receiver 102 (*id.*).

In operation, XM radio receiver 102 receives a broadcast containing service information that contains product IDs or bookmarks (*id.* at [0019]). Specifically, the service information contains sixteen (16) bytes of data comprising the artist name, song name, and some other possible identifier information (*id.*). The bookmarks are numeric data uniquely identifying the song or broadcast (*id.*). While listening to XM radio receiver 102 and

hearing music, news, or other information about which the user would like further information, the user depresses a bookmark button 112 so as to record the associated bookmark and/or a first set of data (*id.*). If the recorded bookmark is “unresolved,” i.e., the bookmark is incomplete and/or contains unresolved data, client application 118 uses browser 114 to access the Internet in order to obtain a resolved, i.e., complete, bookmark (*id.* at [0022]). Hilt, referring to Figure 3, further explains that “[c]lient application 118 thus updates the locally stored bookmarks with the resolved bookmarks and displays this data to user 202 by step 222” (*id.* at [0023]).

As noted above, the Examiner in the Final Action relies on Hilt only for a teaching of an XM radio system that includes a computer 104 (Fig. 1) coupled to a display. Thus, the apparent effect of combining this teaching with the above-discussed teachings of Marko and Rindsberg is to display Rindsberg’s alert information on the screen of the computer rather than on the screen of the radio receiver.

In the Brief, Appellants argue that “Hilt does not teach or suggest a computer coupled to a display having a GUI where data associated with a plurality of channels including channel numbers, artist names, song titles, and channel names are simultaneously updated and displayed on the GUI of the display of the computer.” (Br. “Page 1 of 5.”) In response, the Examiner states, *inter alia*, that “in paragraph 20, Hilt discloses the XM *radio receiver to include a browser* which reads on the limitation of GUI interface.” (Answer 13, para. 1 (emphasis added).) We agree with Appellants that reading the recited “graphical user interface” on the radio

receiver is at odds with the requirement of claim 1 that the recited “graphical user interface” be *part of* the recited “computer,” which is separate from the recited “radio receiver.” (See Reply Br. 7 (“The *claimed GUI* is used to display non-audio data received from the radio receiver . . .”).) However, the above statement by the Examiner appears to be harmless error, i.e., not essential to the rejection. The Examiner has no need to rely on Hilt for a teaching of displaying channel information on a radio receiver because, as noted above, the Examiner finds that display 518 in Rindsberg’s radio receiver displays the alert information to the user. Also, to the extent that the Examiner finds that Hilt’s browser 114 is a GUI, that finding is unnecessary because Appellants did not deny in the Brief that Hilt’s computer includes a GUI.

Appellants’ argument (Reply Br. 7-8) that Hilt fails to display the type of information required by the claim is unpersuasive because the Examiner relies on Marko and Rindsberg for the type of information to display (Answer 13-14).

Because Appellants have failed to persuade us that the Examiner erred in rejecting claim 1 for obviousness over Hilt in view of Marko and Rindsberg, we are sustaining the rejection of claim 1 and the rejection of claims 2-5, 8-12, 20-22, and 26, which are argued as a group along with claim 1. We are also sustaining the rejection on the same ground of dependent claim 23, which is not separately argued and which, as noted above, improperly stands rejected for obviousness over Marko on view of Rindsberg.

*C. Claims 13-15 (Hilt in view of Marko)*

Claim 13 reads as follows:<sup>14</sup>

13. A computer based multi-channel radio, comprising:  
a single digital audio radio receiver for receiving a plurality of channels and data associated with the plurality of channels over-the-air;

a channel decoder coupled to the radio receiver; and

a port for transmitting data associated with the plurality of channels, transmitting an output signal representative of a selected channel among the plurality of channels, and for receiving control signals from a computer having a graphical user interface, wherein the graphic user interface selectively displays at least a portion of the data associated with the plurality of channels simultaneously and [the] user selectively controls the channel decoder by selecting the selected channel on the graphical user display, wherein the data associated with the plurality of channels includes a plurality of channel numbers, a plurality of artist names, a plurality of song titles, and a plurality of channel names.

Appellants argue that for the reasons given in discussing the other rejections, “Hilt and Marko fail to teach, suggest, mention or contemplate a plurality of channels that includes a plurality of channel numbers, a plurality of artist names, a plurality of song names, etc. that are updated and displayed simultaneously on a GUI in the context recited in claims 13-15.” (Br. “Page 4 of 7.”) This argument is unpersuasive of nonobviousness for two reasons.

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<sup>14</sup> See July 5, 2007, “Response to Office Action,” at 4.

First, claim 13 does not recite updating. Second, this argument apparently assumes (incorrectly in our view) that the recited “computer based multi-channel radio” (*see* preamble) *includes* the recited “computer having a graphical user interface” for displaying data associated with a plurality of channels in the claimed manner. However, the language of claim 13 is broad enough to read on a radio receiver having a port that is merely *capable* of being used to communicate with a computer having a GUI for displaying data associated with a plurality of channels in the claimed manner.

The rejection of claim 13 and its dependent claims 14 and 15, which are not separately argued, is sustained.

*D. Claims 6 and 24 (Hilt in view of Marko, Rindsberg, and Sezan)*

Claim 6 reads as follows:

6. The system of claim 1, wherein the graphical user interface enables the simultaneous viewing of a plurality of channel numbers, a plurality of artist names, a plurality of song titles, a plurality of channel names, a plurality of categories, and *a plurality of use percentages* of the channels among the plurality of channels.

Claims App. (Br. “Page 6 of 6” (emphasis added)). Claim 24 is similar.

Sezan discloses a system for audiovisual information browsing, filtering, searching, archiving, and personalization. Sezan, col. 1, ll. 15-18.

In the Answer (at page 15, para. 2), the Examiner states that

Sezan teaches an audiovisual information management system and therefore [is] in the same analogous art as Hilt, Marko and Rindsberg. Further Sezan teaches a method of presenting a usage

history that is proportional to a measured percentage consumed by a user of that particular program.

Therefore it would have been obvious to one with ordinary skill in the art at the time the invention was made to provide the above teachings of Sezan to modified [sic] Hilt in order to provide information of the most popular program viewed by the user.

Appellants' argument that Marko is not available as a reference (Reply Br. 9, para. III) is ineffective for the reasons given above. The only other argument in the Reply Brief is that claims 6 and 24 are patentable over the references for the same reasons as parent claims 1 and 20, respectively (*id.*). This argument is unpersuasive for the reasons given above in the discussion of claims 1 and 20.

The rejection of claims 6 and 24 is therefore sustained.

*E. Claim 17 (Marko in view of Rindsberg and Sezan)*

Appellants make the same unpersuasive arguments with respect to dependent claim 17 that they make with respect to claims 6 and 24. The rejection of claim 17 is therefore affirmed.

*F. Claim 7 (Hilt in view of Marko, Rindsberg, and Turnbull)*

Claim 7 reads as follows:

7. The system of claim 1, wherein the graphical user interface enables the viewing of signal strength of a signal received from a satellite signal and a terrestrial signal.

Claims App. (Br. 7).

Turnbull discloses a rearview assembly includes a mounting structure and a tri-band antenna module. Turnbull [0003]. The Examiner (Final Action 6, para. 3) relies on paragraph 0087, which in describing display 45 of the rearview assembly (Fig. 10; [0084]-[0086]), explains that the displayed information can include, for example, “telephone and voice signal strength information.”

In the Brief, Appellants responded to the rejection of claim 7 by arguing that it is patentable for the same reasons as parent claim 1 (Br. “Page 3 of 7”). Although Appellants in the Brief (*id.*) also describe the subject matter of claim 7 (and similar claim 19), they do not assert that, or explain why, that subject matter provides a separate basis for patentability.

We are therefore sustaining the rejection of claim 7 for the same reasons that we are sustaining the rejection of claim 1.

*G. Claim 19 (Marko in view of Rindsberg and Turnbull)*

Claim 19 is similar to claim 7 but depends on claim 16.

Although Appellants in the Brief (at “Page 3 of 7”) describe the subject matter of claim 19, they do not assert, or explain why, this subject matter provides a separate basis for patentability.

The rejection of claim 19 is therefore sustained for the same reasons as the rejection of parent claim 16.

Appeal 2010-010100  
Application 10/626,244

DECISION

The Examiner's decision that claims 1-26 are unpatentable over the prior art is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1). *See* 37 C.F.R. § 1.136(a)(1)(v) (2010).

AFFIRMED

babc

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